bsb

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 511 OF 1990

The State of Maharashtra ... Appellant

V/s

1. Tukaram Vithal Janmale
2. Vithal Laxman Janmale
3. Shivamma Vithal Janmale ... Respondents
(Ori.Accused 1to3)

Mr. P.S. Hingorani, A.P.P. for the appellant State.

CORAM: D. G. DESHPANDE &
SMT. NISHITA MHATRE, JJ.

DATED: 7TH JUNE, 2007.

P.C.:

1. Heard the learned A.P.P. for the State. Nobody is present for the accused respondents.

2. This appeal is filed by the State against the acquittal of the accused under Sections 306, 498-A read with Section 34 and 304-B read with Section 34 of the Indian Penal Code.

3. The case of the prosecution was that the accused No.1, against whom the appeal is admitted, ill-treated his wife for the fulfilments of demand of dowry to such

an extent that she was compelled to commit suicide.

4. The prosecution examined father of the victim only as a witness to support this allegation. In his entire evidence, which was read before us, he only says that his daughter was not treated properly on account of demands. There is no allegation by the father that the daughter was ill-treated, beaten, physically assaulted or mentally tortured to such an extent as to compell her to commit suicide. Therefore, it is clear that the prosecution could not prove even the basic ingredients of Sections 306, 498-A and 304-B of the Indian Penal Code. It is true that Renuka died within seven years of her marriage but even for drawing presumption under Section 304-B of the Indian Penal Code and under the Evidence Act, the prosecution has to prove the consistent demand of dowry followed by ill-treatment of grave nature. Nothing is there in the record. Therefore, the judgment of the trial Court is not required to be interfered with.

5. Hence, the appeal stands dismissed.

(D.G. DESHPANDE, J.)

(SMT. NISHITA MHATRE, J.)